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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION**

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA,

18 Plaintiffs,

19 vs.

20 MICHAEL JOSEPH JACKSON,

21 Defendant.

) Case No. 1133603

) EX PARTE APPLICATION FOR AN
) ORDER THAT REPLY TO THE DISTRICT
) ATTORNEY'S OPPOSITION TO MOTION
) FOR RECUSAL OF SANTA BARBARA
) COUNTY DISTRICT ATTORNEY'S
) OFFICE PURSUANT TO PENAL CODE
) SECTION 1424 BE FILED UNDER SEAL

) Honorable Rodney S. Melville

) Date: November 4, 2004

) Time: 8:30 am

) Dept: SM 8

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25 **TO THE CLERK OF THE ABOVE ENTITLED COURT:**

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27 **EX PARTE APPLICATION FOR AN ORDER THAT**
28 **REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL OF SANTA**
BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424 BE
FILED UNDER SEAL

1 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled
2 REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL OF
3 SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL
4 CODE SECTION 1424 and accompanying documents be filed under seal and for such other such
5 further relief as the Court may deem just and proper. This request is based on the overriding
6 interests of Mr. Jackson's rights to due process and a fair trial under the Fifth, Sixth and Fourteenth
7 Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the California
8 Constitution.

9 Dated: November 1, 2004

10 Respectfully submitted,

11 COLLINS, MESEREAU, REDDOCK & YU
12 Thomas A. Mesereau, Jr.
Susan C. Yu

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
16 Brian Oxman

17 By: 

18 Robert M. Sanger
19 Attorneys for Defendant
20 MICHAEL JOSEPH JACKSON
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27 EX PARTE APPLICATION FOR AN ORDER THAT
28 REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL OF SANTA
BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424 BE
FILED UNDER SEAL

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **THE COURT HAS THE AUTHORITY TO ORDER THAT**
4 **A RECORD BE FILED UNDER SEAL**

5 Pursuant to California Rule of Court 243.1(d), the Court has the authority to order a
6 record be filed under seal if it expressly finds that:

- 7 1. There exists an overriding interest that overcomes the right of public access to the
8 record;
- 9 2. The overriding interest supports sealing the record;
- 10 3. A substantial probability exists that the overriding interest will be prejudiced if the
11 record is not sealed;
- 12 4. The proposed sealing is narrowly tailored; and
- 13 5. No less restrictive means exist to achieve the overriding interest.

14 (California Rule of Court 243.1(d).)

15 II.

16 **OVERRIDING INTERESTS EXIST THAT MEETS THE ABOVE CRITERIA FOR**
17 **SEALING A RECORD**

18 It is necessary to seal the record pursuant to California Rule of Court 243.1(d) based on
19 the overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth,
20 Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7,
21 and 15 of the California Constitution.

22 An inspection of the exhibits will reveal that they disclose the testimony of witnesses or
23 potential witnesses and disclose possible evidence, the admissibility of which, is yet to be
24 determined.

25 The overriding interests of Mr. Jackson's rights to a fair trial and due process would be
26 compromised if the exhibits are not filed under seal. A person accused of a crime is entitled to

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1 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United
2 States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. Material
3 contained the exhibits pertains to evidence and the testimony of witnesses that, if made public,
4 would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson. In
5 order to protect these overriding interests, it is necessary that the exhibits be filed under seal.

6 **CONCLUSION**

7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that Mr.
8 Jackson's previously filed pleading entitled REPLY TO THE DISTRICT ATTORNEY'S
9 OPPOSITION TO MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT
10 ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424 and accompanying
11 documents be filed under seal.

12 Dated: November 1, 2004

13 COLLINS, MESEREAU, REDDOCK & YU
14 Thomas A. Mesereau, Jr.
Susan C. Yu

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16 Robert M. Sanger

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19 By: 

20 Robert M. Sanger
21 Attorneys for
22 MICHAEL JOSEPH JACKSON
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24
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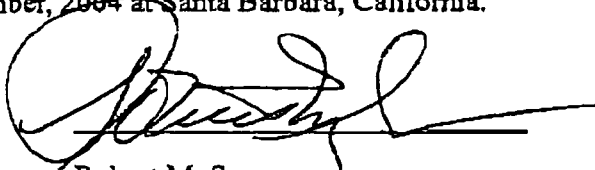
27 EX PARTE APPLICATION FOR AN ORDER THAT
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BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424 BE
FILED UNDER SEAL

DECLARATION OF ROBERT M. SANGER

I, Robert Sanger, declare:

1. I am an attorney at law duly licensed to practice law in the courts of the State of California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael Jackson.
2. It is necessary that Mr. Jackson's pleading entitled **REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424**, and accompanying documents, be filed under seal in order to protect the overriding interests of Mr. Jackson's rights to due process and a fair trial, as well as to prevent the disclosure of witnesses, potential witnesses and potential evidence.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 1st day of November, 2004 at Santa Barbara, California.


Robert M. Sanger